

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

ALFONZO B. SALLEY	:	
Plaintiff	:	CIVIL ACTION NO. 3:13-2423
v.	:	(MANNION, D.J.) (BLEWITT, M.J.)
MARTIN DRAGOVICH, <u>et al.</u>,	:	
Defendants	:	

ORDER

In light of the memorandum issued this same day, **IT IS HEREBY ORDERED THAT:**

- (1) the report of the magistrate judge, (**Doc. [12](#)**), is **ADOPTED** to the extent that it is recommended that the plaintiff's motions to proceed *in forma pauperis*, (**Doc. [2](#)**, **Doc. [7](#)**), be **GRANTED**, and **ADOPTED** as to dismissal of the action, but for reasons other than those recommended in the report;
- (2) the plaintiff's action, which was docketed and considered by the magistrate judge as a §1983 action, is construed by the court as a motion pursuant to Fed.R.Civ.P. 60(b);
- (3) the plaintiff's Rule 60(b) motion is **DISMISSED** on the bases that the plaintiff has failed to establish that he could not have obtained the newly acquired evidence, which was in

existence at all times relevant to his previous civil rights action, before May of 2013 and because the plaintiff's motion is otherwise untimely pursuant to Fed.R.Civ.P. 60(c).

- (4) the Clerk of Court is directed to **CLOSE THE INSTANT ACTION.**

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Date: July 28, 2014

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